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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,028	08/03/2001	Dominic Dough-Ming Cheung	9623-329	9269
56020 7590 10/17/2007 BRINKS HOFER GILSON & LIONE / YAHOO! OVERTURE P.O. BOX 10395 CHICAGO, IL 60610			EXAMINER COLBERT, ELLA	
			ART UNIT 3694	PAPER NUMBER
			MAIL DATE 10/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/922,028	<b>Applicant(s)</b> CHEUNG ET AL.	
	<b>Examiner</b> Ella Colbert	<b>Art Unit</b> 3693	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 72-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 72-78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/02/07</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 72-78 are pending. Claims 72, 74, 75, 77, and 79 have been amended in this communication filed 5/29/07 entered as Response After Non-Final action and New or Additional Drawings.
2. The IDS filed 8/02/07 has been considered and entered.
3. The objections to the Specification have been overcome by Applicants' amendment to the Specification and is hereby withdrawn.
4. The objections to drawing fig.'s 1 and 31 have been overcome by Applicants' amendment to the Specification and figure 31 and are hereby withdrawn.
5. The claim objections to claims 72, 74, 75, 77, 78, and 79 have been overcome by Applicants' amendment to the claims and are hereby withdrawn.
6. The 35 USC 112, second paragraph rejections of claim 72 are hereby withdrawn in view of Applicants' amendment to claim 72.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8. Claim 72 rejected under 35 U.S.C. 102(a) as being anticipated by (US 6,078,866) Buck et al, hereafter Buck.

Claim 72. Buck discloses, A database searching apparatus comprising:

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a search engine operative to provide search results including search listings according to rank (col. 6, lines 48-61 and col. 3, line 35 –col. 4, line 12 and lines 49-59); and a database searchable by the search engine and including a plurality of search listings, at least some search listings being associated with advertisers (Fig.'s 1A and 1B), the search listing associated with an advertiser including a search term specified by the advertiser (col. 7, lines 15-28), and a desired rank specified by the advertiser for a search listing and a maximum cost per click (maximum CPC) and a cost per click (CPC) associated with the desired rank for the search term and the advertiser, wherein, when the advertiser enters a new search listing or changes the maximum CPC of a search listing the account management server is operative, to adjust the CPC of the advertiser's search listing to maintain the desired rank, the account management server is operative to move the search listing to the highest rank possible without exceeding the maximum CPC of the advertiser's search listing (col. 7, line 58-col. 8, line 38 and col. 8, lines 42-67), the account management server is operative to maintain the CPC of the advertiser's search listing less than or equal to the maximum CPC of the advertiser's search listing, the account management server is operative to set the CPC of the advertiser's search listing no higher than necessary (col. 9, lines 1-13), and to avoid setting the CPC of the advertiser's search listing so that desired ranks and CPCs of other advertisers are maintained (col. 9, lines 16-31).

***Claim Rejections - 35 USC § 103***

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9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 73-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,078,866) Buck et al, hereafter Buck in view of Official Notice.

Claim 73. Buck failed to disclose, The database searching apparatus of claim 72 wherein the database further stores a timestamp associated with each desired rank, the timestamp indicated time the search listing was entered or changed. Official Notice is taken that it is old and well known for a database to store a timestamp associated with the desired rank and the timestamp to indicate the time the search listing was entered or changed. It is well known that in the Internet art that web pages are timestamped and can be ranked and placed in database storage with the time the web page was last modified or ranked.

Claim 74. Buck discloses, the database searching apparatus of claim 73 wherein the search engine is configured to receive a search request (col. 1, lines 44-55 –Background Art); locate one or more search listings having a matching relationship with the search request (col. 1, line 66-col. 2, line 11 (Background Art); and order search results from the one or more search listings using the CPC associated with the one or more search listings (col. 3, line 53-col. 4, line 47).

Claim 75. Buck failed to disclose, The database searching apparatus of claim 72 further comprising: an account manager accessible by the advertiser to vary at least

one of the maximum cost per click and the desired rank for a respective bid and desired rank. Official Notice is taken that a bid and a desired rank is well known when bidding on advertisement placement or bidding on most things a person desires a rank according to their bid.

Claim 76. Buck failed to disclose, The database searching apparatus of claim 75 wherein the account manager is further accessible by the advertiser to vary the maximum cost per click for two or more possible ranks specified by the advertiser. It is well known in the art of advertising on the Internet to pay per clickthrough for ranking in advertising.

11. Claim 77-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,078,866) Buck et al, hereafter Buck in view of Official Notice and further in view of "Mobile Agents".

Claim 77. Buck failed to disclose, The database searching apparatus of claim 72 further comprising: one or more software agents configured to receive advertiser bid information, and act on the advertiser bid information to adjust the cost per click for a specified search listing. "Mobile Agents" discloses, The database searching apparatus of claim 72 further comprising: one or more software agents configured to receive advertiser bid information, and act on the advertiser bid information to adjust the cost per click for a specified search listing (pages 1(3) –page 4(4)). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of "Mobile Agents" in Buck because such an incorporation would allow Buck to have a more efficient way of receiving advertiser bid information.

Claim 78. Buck discloses, The database searching apparatus of claim 77 wherein the one or more software agents is configured: to increase current cost per click of the specified search listing if the rank of the specified search listing can be improved without exceeding the maximum cost per click (col. 4, lines 13-48); and decrease the current cost per click of the specified search listing without moving the specified search listing to a rank worse than the desired rank (col. 4, line 49-col. 5, line 3 and line 62-col. 6, line 67).

Claim 79. Buck discloses, The database searching apparatus of claim 78 wherein the one or more software agents are configured to decrease the current cost per click of the specified search listing only if no other search listing will have its respective current cost per click increased to decrease the rank of the specified search listing (col. 7, line 57-col. 8, line 38).

### **Inquiries**


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 11, 2007

  
ELLA COLBERT  
PRIMARY EXAMINER